

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 UNITED STATE OF AMERICA § CASE NO. 4:20-CR-00412  
5 VERSUS § HOUSTON, TEXAS  
6 IBRAHEEM AHMED AL BAYATI § TUESDAY,  
§ SEPTEMBER 8, 2020  
§ 2:05 P.M. TO 2:12 P.M.

7 **INITIAL APPEARANCE (VIA VIDEO)**

8 BEFORE THE HONORABLE SAM SHELDON  
9 UNITED STATES MAGISTRATE JUDGE

10  
11 APPEARANCES: (SEE NEXT PAGE)  
12 CASE MANAGER: SHANNON JONES  
13 COURT RECORDER: JESUS A. GUAJARDO

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**APPEARANCES (VIA VIDEO) :**

FOR THE GOVERNMENT:

US DEPARTMENT OF JUSTICE  
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FOR THE DEFENDANT:

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1        HOUSTON, TEXAS; TUESDAY, SEPTEMBER 8, 2020; 2:05 P.M.

2                THE COURT: Good afternoon, sir. And I see you're  
3 here with your attorney, Mr. Adler.

4                And who is here on behalf of the Government on  
5 Mr. Al Bayati's case?

6                MR. HAMDANI: Good afternoon, Judge. Alamdar  
7 Hamdani on behalf the United States.

8                THE COURT: So Mr. Bayati, we're here for your  
9 initial appearance on a felony criminal complaint. Normally  
10 we would conduct this hearing in person, but because of the  
11 pandemic we're doing this hearing by video with your  
12 permission.

13                Do we have your permission to do this hearing by  
14 video?

15                DEFENDANT BAYATI: Yes.

16                THE COURT: So I'm going to go over your rights  
17 with you this afternoon. The first is you have the right to  
18 have an attorney represent you. If you can't afford one,  
19 one will be appointed free of charge.

20                Would you like to hire your own attorney or would  
21 you like us to appoint Mr. Adler?

22                DEFENDANT BAYATI: (No audible response.)

23                THE COURT: I can't hear you.

24                DEFENDANT BAYATI: If you could appoint the same?

25                THE COURT: Mr. Adler?

1               DEFENDANT BAYATI: Yes.

2               THE COURT: Okay. So before I can appoint  
3 Mr. Adler to represent you, I have to ask you a few  
4 questions to make sure that you qualify for court-appointed  
5 counsel.

6               Do you currently work right now?

7               DEFENDANT BAYATI: Yes.

8               THE COURT: And how much do you earn per month?

9               DEFENDANT BAYATI: Well, it used to be 2,000 a  
10 month when I was working 40 hours. Now it should be around  
11 1500 (indiscernible).

12              THE COURT: And how much money do you have in the  
13 bank?

14              DEFENDANT BAYATI: Combined checking and savings  
15 is 2200.

16              THE COURT: I find that you qualify for  
17 court-appointed counsel. I will go ahead and appoint  
18 Mr. Adler to represent you in this case.

19              You have the right to remain silent. I'm not  
20 going to ask you any questions about your case, I'm just  
21 going to explain to you why you were arrested and then have  
22 you acknowledge to me that you understand why you were  
23 arrested.

24              DEFENDANT BAYATI: Yes.

25              THE COURT: The Government requested that you be

1 detained. We'll go forward with a detention or Pretrial is  
2 recommending that you be released.

3 What's the Government's position on detention?

4 MR. HAMDANI: Your Honor, the United States will  
5 seek detention and also request a detention hearing take  
6 place in a couple of days on Thursday. A request to  
7 continue to 3142 as to have a detention hearing in two days.

8 THE COURT: Mr. Adler?

9 MR. ADLER: (No audible response.)

10 THE COURT: Mr. Adler, you're muted.

11 MR. ADLER: Sorry, Judge. We would object to  
12 that. Mr. Al Bayati has been in custody since Friday. The  
13 Court notified me and Mr. Hamdani on Saturday morning that  
14 this would be proceeding today.

15 THE COURT: Mr. Hamdani, what's the -- is there a  
16 witness that can't be available or what's the issue?

17 MR. HAMDANI: Yes. Right now the witness is not  
18 available. On top of that, the reason is because in order  
19 to understand his full danger, we've got three phones and a  
20 laptop. As you know from the complaint, Mr. Al Bayati  
21 claims that (indiscernible) could look through that a  
22 cursory review of one of the songs that there was ISIS  
23 material on there.

24 To that effect, Your Honor, I think it best for  
25 the Court to get a full, complete picture as to who -- we're

1 looking at danger it poses and that's why if the Court would  
2 make -- actually the Government needs just two days to  
3 prepare for the detention hearing, Your Honor.

4 THE COURT: Mr. Adler, what -- is this going to be  
5 a detention hearing and a probable cause hearing?

6 MR. ADLER: Yes, Your Honor.

7 THE COURT: Okay. So -- okay, so we'll go forward  
8 Thursday. So these two, we will go forward Thursday at  
9 10:00 a.m. with the detention hearing and probable cause  
10 hearing.

11 So let me review that charge against you. Your  
12 attorney may have already explained to you. In that sense  
13 you're being charged right now with using interstate  
14 commerce to make a threat. And without me reading the  
15 entire complaint, have you had a chance to discuss with your  
16 attorney the charge against you? All I'm asking is do you  
17 acknowledge why you were arrested?

18 DEFENDANT BAYATI: Yes.

19 THE COURT: And what's the maximum penalty you  
20 face for Mr. Al Bayati?

21 MR. HAMDANI: Yes, Your Honor. For the charge of  
22 18 USC (indiscernible), he's facing up to five years in  
23 prison and a \$250,000 fine and up to three years of  
24 supervised release. For the violation 18 United States Code  
25 844(b), it's up to ten years in prison, up to three years of

1 supervised release, and \$250,000.

2 THE COURT: So Mr. Bayati, what's going to happen  
3 is on Thursday you're going to come back at 10:00 a.m. Two  
4 things will happen: One is we'll have a detention hearing.  
5 The Government has asked for two days to prepare and by  
6 statute they're entitled that time, but they have the burden  
7 to prove to me on Thursday morning that you're either a  
8 flight risk or that there is no conditions or combinations  
9 of conditions that would reasonably assure the safety of the  
10 community.

11 What will also happen at that hearing is the  
12 Government will put forth a witness to show more evidence as  
13 to the crime that's being -- the two crimes that are being  
14 charged against you in the complaint.

15 That's what will occur on Thursday.

16 At that hearing, I will issue an order as to your  
17 -- as to both issues, as to whether you'll remain in custody  
18 pending the outcome of the case or you'll be released on  
19 bond. And then I'll also make the determination if there's  
20 probable cause to go forward with your case.

21 Do you have any other questions? So you'll remain  
22 in custody until we see you on Thursday morning.

23 Do you have any other questions for me?

24 DEFENDANT BAYATI: No.

25 THE COURT: And Mr. Adler?

1 MR. ADLER: Yes. I understand you're giving the  
2 Government a little more time to prepare and I would like to  
3 prepare, as well. So if the Government could advise of its  
4 proceeding under the risk of flight or the danger to the  
5 community or both, that would be helpful.

6 MR. HAMDANI: At this time we're proceeding as to  
7 both.

8 THE COURT: And you said since we are -- so if you  
9 could give Mr. -- if you could by tomorrow at, let's say,  
10 2:00 p.m., Mr. Hamdani, give Mr. Adler a witness list and  
11 documents that you intend to use at the hearing.

12 MR. HAMDANI: Yes, Your Honor. I will.

13 MR. ADLER: Thank you, Judge.

14 THE COURT: Anything else that we need to cover?

15 MR. ADLER: Not from the Defense, Your Honor.

16 THE COURT: And Mr. Bayati, do you have any  
17 questions for me?

18 DEFENDANT BAYATI: I do not.

19 THE COURT: Okay. So I will see you Thursday  
20 morning at 10:00 o'clock.

21 Thank you.

22 DEFENDANT BAYATI: Thank you.

23 (Hearing adjourned at 2:12 p.m.)

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1 I certify that the foregoing is a correct  
2 transcript to the best of my ability due to the condition of  
3 the electronic sound recording of the telephonic/video  
4 proceedings in the above-entitled matter.

5 /S/ MARY D. HENRY

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